

CV 120 2815

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IRIZARRY, J.

PETER P. REICHERT,

)

Plaintiff,

) No.

v.

DANIELS NORELLI SCULLY &
CECERE, P.C.

Defendant.

JURY DEMANDED
SUMMONS ISSUED

COMPLAINT FOR VIOLATIONS OF THE
FAIR DEBT COLLECTION PRACTICES ACT

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

2012 JUN -5 PM 1:55

FILER
CLERK

Introduction

1. Plaintiff is a consumer who has been subjected to defendant Daniels Norelli Scully & Cecere, P.C.'s violations of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692, *et seq.* The FDCPA prohibits debt collectors from engaging in abusive, deceptive, unfair, and illegal collection practices.

2. Defendant violated the FDCPA by knowingly and willfully filing a lawsuit against plaintiff after plaintiff disputed an alleged debt in writing.

Parties

3. Plaintiff Peter P. Reichert ("Reichert") is a citizen of the State of New York who resides within Queens County, New York.

4. Plaintiff Reichert is a "consumer," as that term is defined by § 1692a(3) of the FDCPA, in that the alleged debt that the defendant sought to collect from him is a consumer debt.

5. Defendant Daniels Norelli Scully & Cecere, P.C. ("Daniels Norelli") is a professional corporation organized in Nassau County under the laws of the State of New York.

6. Daniels Norelli has its principal place of business at One Old Country Road, Suite LL5, Carle Place, NY 11514.

7. Daniels Norelli is regularly engaged for profit in the collection of debts allegedly owed by consumers through correspondence, telephone calls, and litigation.

8. Daniels Norelli is a "debt collector" as defined by § 1692a(6) of the FDCPA.

9. The alleged debt that Daniels Norelli sought to collect from Reichert is a consumer debt, as defined by § 1692a(5) of the FDCPA.

10. The alleged debt that Daniels Norelli sought to collect from Reichert was incurred primarily for personal, family, or household purposes.

Jurisdiction and Venue

11. This Court has federal question jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.

12. Venue is proper in this district under 28 U.S.C. § 1391(b), as the acts and transactions that gave rise to this action occurred, in substantial part, in this district.

13. Venue is also proper in this district because Defendants can be found, have agents, or transact business in this district.

Factual Allegations

14. On or about September 17, 2011, Daniels Norelli sought to collect an alleged debt from Reichert through a collection letter. A copy of this letter, with personal information redacted, is attached as Exhibit A.

15. This was Daniels Norelli's initial communication with Reichert in connection with the collection of the alleged debt.

16. On October 4, 2011, by certified mail, return receipt requested, Reichert replied to this letter and disputed the validity of the debt. A copy of this letter, with personal information redacted, together proof of delivery, is attached as Exhibit B.

17. Reichert received no response to this letter.

18. In early February 2012, Reichert learned he was a defendant in a collections lawsuit.

19. Daniels Norelli, instead of responding to Reichert's letter and verifying the alleged debt, sued Reichert in Civil Court of the City of New York, County of Queens, on the alleged debt. A copy of the Complaint and Summons is attached as Exhibit C.

20. In mid-February 2012, Reichert settled the alleged debt with Daniels Norelli.

COUNT I
Violations of the Fair Debt Collection Practices Act

Violations of Sections 1692g

21. Plaintiff hereby restates, realleges, and incorporates herein by reference all foregoing paragraphs as if set forth fully in this Count.

22. Section 1692g(b) of the FDCPA provides, in relevant part:

If the consumer notifies the debt collector in writing within the thirty-day period [of the initial communication] that the debt ... is disputed ... the debt collector shall cease collection of the debt ... until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector.

23. By filing suit against Reichert after Reichert disputed the validity of the debt, Daniels Norelli violated Section 1692g(b).

24. Reichert notified Daniels Norelli in writing within the 30 day period after receiving their initial communication that he disputed the validity of the debt, but Daniels Norelli failed to cease collection of the debt until they obtained verification of it and sent a copy of the verification to Reichert.

25. Instead, Daniels Norelli filed a collections lawsuit against Reichert, thereby violating FDCPA 1692g(b).

WHEREFORE, Plaintiff Peter P. Reichert asks that this Court enter judgment in his favor against Defendant Daniels Norelli as follows:

- A. A declaratory judgment that Defendants' conduct violated the FDCPA;
- B. Statutory damages as provided by Section 1692k of the FDCPA;
- C. Attorneys' fees, litigation expenses, and costs; and
- D. Such other and further relief as the Court may deem just and proper.

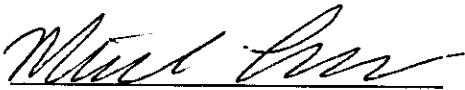
Demand for Jury Trial

Please take notice that Plaintiff demands a trial by jury in this action.

Dated: New York, New York
June 5, 2012

Respectfully submitted,

BROMBERG LAW OFFICE, P.C.

By: 
Michael N. Litrownik
One of Plaintiff's Attorneys

Attorneys for Plaintiff

Brian L. Bromberg
Michael N. Litrownik
Bromberg Law Office, P.C.
40 Exchange Place, Suite 2010
New York, NY 10005
(212) 248-7906

Exhibit A

DANIELS & NORELLI, P.C.
Attorneys at Law

FRED G. DANIELS
GEORGE H. NORELLI
JAMES P. SCULLY
ISAAC N. TUCHMAN

MEREDITH E. UNGER
JOSHUA R. BRONSTEIN
IRA R. SITZER

Toll Free 1-866-276-4734
Local 516-394-8780
Fax 516-338-7954

September 17, 2011

59982

E *****AUTO**MIXED AADC 350
32267-21A/120004846597/11893/DMIP 0261
PETER P REICHERT
1821 129TH ST
FLUSHING, NY 11356-2413



99982

Current Creditor: CACH, LLC
Our Account No.: 120004846597
Original Creditor: CITIBANK SOUTH DAKOTA, N.A.
Original Account Number: [REDACTED]
Current Balance : \$7,044.14

Dear Peter P Reichert:

PLEASE BE ADVISED THAT THIS OFFICE HAS BEEN RETAINED BY CACH, LLC. THE ABOVE REFERENCED ACCOUNT HAS BEEN FORWARDED TO OUR FIRM FOR COLLECTION. PLEASE CONTACT THIS OFFICE AS WE WOULD LIKE TO ARRANGE FOR PAYMENT.

VALIDATION NOTICE

UNLESS YOU DISPUTE THE VALIDITY OF THIS DEBT OR ANY PORTION THEREOF WITHIN 30 DAYS AFTER RECEIPT OF THIS NOTICE, THE ABOVE DEBT WILL BE ASSUMED TO BE VALID BY THIS OFFICE. SHOULD YOU NOTIFY THIS OFFICE IN WRITING AT THE ADDRESS SHOWN BELOW WITHIN 30 DAYS AFTER RECEIPT OF THIS NOTICE THAT THE DEBT OR ANY PORTION THEREOF IS DISPUTED, WE WILL OBTAIN AND MAIL TO YOU VERIFICATION OF THE DEBT OR A COPY OF THE JUDGMENT, IF ANY, AND IF ALSO REQUESTED, THE NAME OF THE ORIGINAL CREDITOR, IF DIFFERENT FROM THE CURRENT CREDITOR.

At this time no attorney with our law firm has personally reviewed the particular circumstances of your account.
Please contact us, the toll free number is 1-866-276-4734.

DANIELS & NORELLI, P.C.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR. THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. DANIELS & NORELLI, P.C. IS ONLY LICENSED TO PRACTICE LAW IN THE STATE OF NEW YORK. IF YOU DO NOT RESIDE IN THE STATE OF NEW YORK WE HAVE NO ABILITY TO INSTITUTE SUIT AGAINST YOU.

You are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

ONE OLD COUNTRY ROAD SUITE 115 CARLE PLACE, NY 11514

09/11/1893

PAGE 09/12

A AND B TRADING

05/15/2012 06:05 17187527045

Exhibit B

10-4-11

Peter P. Reichert
8-21 129 St.
Elmira Point, NY 11356

DANIELS & NORELLI, P.C.
ONE Old Country Rd.
Suite LL5
Carle Place NY 11514

To Whom it May Concern,

I Received A Letter from your office dated 9-17-2011 in
Which you say That I owe Money To CACH, LLC. The Account
ON your Letter is 120004846597. I dispute this debt.

Please Show ME How you Calculate What you
Say I owe. Please Show ME Proof That I
owe Money To CACH, LLC. I NEVER heard
of them And dont know Who They ARE. In
Addition, Please Provide Me With Proof That
your office And Cach LLC Have the Right
To Collect Money from ME.

Sincerely,
Peter P. Reichert
Peter P. Reichert

P.S. I AM sending This Certified MAIL,
Return Receipt Requested

U.S. POSTAL SERVICE
CERTIFIED MAIL RECEIPT
(Domestic Mail Only. No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

CARLIS REACH-NY 11514 A L U S

Pounds	\$	0008
Certified Fee	\$	2.85
Return Receipt Fee (Endorsement Required)	\$	2.30
Restricted Delivery Fee (Endorsement Required)	\$	0.00
Total Postage & Fees	\$	5.59

10/08/2011

Send To:	J-Angelis & Norelli, PC
Street, Apt. No., or PO Box No.	ONE Old Country Rd. Suite LL5
City, State, ZIP+4	Carle Place, New York 11514

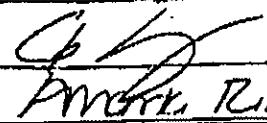
Direct Query - Intranet

Page 1 of 1



Track/Confirm - Intranet Item Inquiry
Item Number: 7010 1670 0001 7955 1057

This item was delivered on 10/11/2011 at 11:43

Signature:	JOHN (S10) 338-2370 Delivery Section  John R. Ric
Address:	1111 ULLYURE 1 OLD COUNTY RD STE 1 CARLE PLACE NY 11542 

Enter Request Type and Item Number:

Quick Search Extensive Search

[Explanation of Quick and Extensive Searches](#)

Version 1.0

Inquire on multiple items.

[Go to the Product Tracking System Home Page.](#)

11/2/2011

<https://pts.usps.gov/pts/imageView.do>

02/07/2012 07:11 17187627045 A AND B TRADING PAGE 05/12

Exhibit C

CONSUMER CREDIT TRANSACTION
IMPORTANT!! YOU ARE BEING SUED!!
THIS IS A COURT PAPER - A SUMMONS

DON'T THROW IT AWAY!! TALK TO A LAWYER RIGHT AWAY!! PART OF YOUR PAY CAN BE TAKEN FROM YOU (GARNISHEED). IF YOU DO NOT BRING THIS TO COURT, OR SEE A LAWYER, YOUR PROPERTY CAN BE TAKEN AND YOUR CREDIT RATING CAN BE HURT!! YOU MAY HAVE TO PAY OTHER COSTS TOO!! IF YOU CAN'T PAY FOR YOUR OWN LAWYER BRING THESE PAPERS TO THIS COURT RIGHT AWAY. THE CLERK (PERSONAL APPEARANCE) WILL HELP YOU!!

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENS

003812

Summons

X

CACH, LLC

Plaintiff(s),

-against-

PETER REICHERT

Defendant(s),

Plaintiff's Address:
4340 S. MONACO, 2nd Flr.
DENVER, CO 80237

The basis of venue designated is:
Defendant lives in QUEENS County or
Defendant(s) transaction took place in
QUEENS County

X

To the above named defendant(s)

YOU ARE HEREBY SUMMONED to appear in the CIVIL COURT OF THE CITY OF NEW YORK, County of QUEENS at the office of the Court Clerk at CIVIL COURT OF THE CITY OF NEW YORK, 89-17 SUTPHIN BLVD, JAMAICA, NY 11435, in the County of QUEENS, City and State of New York, within the time provided by the laws as noted below and to file your answer to the annexed complaint with the Clerk; upon your failure to answer, judgment will be taken against you for the sum of \$7,044.14 with interest thereon from 12/17/2010, together with the costs of this action.

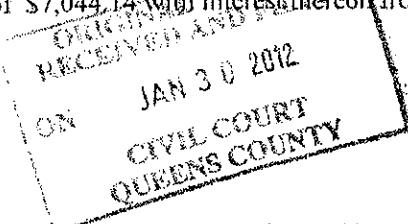
Dated: 1/12/12

Defendant(s) Address: 1821 129th St
Flushing NY 11356

Note: The law provides that (a) If this summons is served by its delivery to you personally within the City of New York, you must appear and answer within 20 days after such service; or (b) If this summons is served by delivery to any person other than you personally, or is served outside the City of New York, or by publication, or by any means other than personal delivery to you within the City of New York, you are allowed 30 days after proof of service thereof is filed with the Clerk of this Court within which to appear and answer.

By : Ira R. Sitzer, Esq.

DANIELS NORELLI SCULLY & CECERE, P.C., Attorneys for Plaintiff, 1 Old Country Rd, Suite LLS, Carle Place, NY 11514, Tel# 866-276-4734.
120004846597-261-13



WE ARE ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

CIVIL COURT OF THE CITY OF NEW YORK
COUNTY OF QUEENS

-----X
Verified Complaint

CACH, LLC

Plaintiff(s),

-against-

PETER REICHERT

Defendant(s).

-----X

Plaintiff, by the undersigned attorneys, complaining of the Defendant(s), alleges as follows, upon information and belief:

1. Plaintiff is a Colorado limited liability company, duly licensed with the City of New York Department of Consumer Affairs license number 1253378. The Plaintiff is the assignee and/or purchaser of all rights and privileges of the credit issuer (to wit, CITIBANK SOUTH DAKOTA, N.A./SEARS) which issued a credit card to the Defendant(s).

2. That the Defendant(s) resides in the county in which this action is brought; or that the Defendant(s) transacted business within the county in which this action is brought in person or through his/her agent and that the instant cause of action arose out of said transaction.

AS AND FOR A FIRST CAUSE OF ACTION

3. At the Defendant(s) request, the original creditor issued a CREDIT CARD ACCOUNT NOW KNOWN AND NUMBERED AS: [REDACTED] to the Defendant(s) under a retail installment credit agreement by which the Defendant(s) agreed to pay for merchandise, loans and installments, and in the event of default, to pay reasonable attorney's fees.

4. The Defendant(s) or authorized members of the family, received cash, merchandise and/or credit on the credit card account and there is presently an unpaid balance due and owing to the Plaintiff in the sum of \$7,044.14 with interest from 12/17/2010 and said defendant(s) is now in default of payment under the terms of said agreement, together with reasonable attorney's fees.

5. Payment of the defaulted balance has been duly demanded and remains unpaid.

6. A copy of the credit card agreement was mailed or delivered to the account holder.

7. That there is now due Plaintiff from Defendant(s) the amount of \$7,044.14 no part of which has been paid, although due & duly demanded.

AS AND FOR A SECOND CAUSE OF ACTION

8. Plaintiff repeats and re-alleges all of the above allegations.

9. CITIBANK SOUTH DAKOTA, N.A./SEARS, assignor to Plaintiff herein, did, prior to the transfer of the title, rights and privileges of said account, furnish and deliver to Defendant(s) on or about 12/17/2010, a full, just and true statement of the unpaid balance due from Defendant(s) by use of said account. That the Defendant(s) received, accepted and retained the accounting without rejection or objection being made.

10. By reason thereof, an account was taken and stated between Plaintiff and Defendant(s) which showed the balance on said account due and owing to plaintiff as \$7,044.14 which remains unpaid.

WHEREFORE, Plaintiff demands judgment against Defendant(s) for the sum of \$7,044.14 with interest from 12/17/2010 together with costs and disbursements of this action.

Dated: 1/12/12

DANIELS NORELLI SCULLY & CECERE, P.C.
Attorneys for Plaintiff
1 Old Country Rd, Suite LL5
Carle Place, NY 11514
(866)-276-4734

State of New York}
County of Nassau} s.s:

I, the undersigned, an attorney-at-law, admitted to practice in the Courts of the State of New York, state that I am an attorney in the firm of Daniels Norelli Scully & Cecere, P.C., the attorney of record for the Plaintiff in the within action; I have read the foregoing complaint and know the contents to be true to my own knowledge, except as to those matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true. The grounds of my belief as to all matters not stated upon my own knowledge are the records of the Plaintiff, which the Plaintiff has provided to me. I affirm that the foregoing statements are true under the penalties of perjury.

Affiant further says that the reason this verification is made by affiant and not by the said Plaintiff, is because Plaintiff is not located within the County in which the attorney maintains his office.

By: Ira R. Sitzer, Esq.

WE ARE ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

Civil Court of the City of New York, County of Queens
89-17 Sulphur Blvd Room 147
Queens NY 11435

Personal and Confidential
PETER REICHERT
1821 129TH ST
FLUSHING, NY 11356



12D003812

CIVIL COURT, CITY OF NEW YORK
TRIBUNAL CIVIL DE LA CIUDAD DE NUEVA YORK
COUNTY OF QUEENS INDEX(LIBRO) NO. 003812/12

Plaintiff/Demandante CACH, LLC

Defendant/Demandado PETER REICHERT

ATTENTION: A SUMMONS AND COMPLAINT HAS BEEN FILED ON A CONSUMER CREDIT TRANSACTION ASKING THE COURT TO RENDER A JUDGMENT AGAINST YOU. YOU MAY WISH TO CONTACT AN ATTORNEY. YOU MUST ANSWER AT THE LOCATION AND WITHIN THE TIME SPECIFIED ON THE SUMMONS. IF YOU DO NOT APPEAR IN COURT THE COURT MAY GRANT A JUDGMENT AGAINST YOU. IF A JUDGMENT IS GRANTED AGAINST YOU YOUR PROPERTY CAN BE TAKEN. PART OF YOUR PAY CAN BE TAKEN FROM YOU (GARNISHEED), AND YOUR CREDIT RATING CAN BE AFFECTED. IF YOU HAVE NOT RECEIVED THE SUMMONS AND COMPLAINT GO TO THE CIVIL COURT CLERK'S OFFICE SPECIFIED ON THE RETURN ADDRESS AND BRING THIS NOTICE WITH YOU.

ATENCIÓ N: BASADO EN UNA TRANSACCIÓ N DE CRÉDITO AL CONSUMIDOR, SE HA SOMETIDO UNA QUERELLA Y UNA CITACIÓN JUDICIAL ANTE EL TRIBUNAL CIVIL. SOLICITÁNDO QUE SE EMITA UN FALLO JUDICIAL EN CONTRA SUYA, POR LO QUE USTED QUERRÁ COMUNICARSE CON UN ABOGADO. USTED TIENE QUE SOMETER UNA RESPUESTA ANTE EL TRIBUNAL, EN EL LUGAR Y EL MOMENTO INDICADO EN LA CITACIÓ N. SI NO COMPARCE ANTE EL TRIBUNAL, SE PUEDE EMITIR UN FALLO JUDICIAL EN SU CONTRA. DE SER ASI, SUS PERTENENCIAS PUEDEN SER EMBARGADAS, PARTE DE SU SALARIO PUEDE SER EMBARGADO Y LA CLASIFICACIÓ N DE SU CRÉDITO PUEDE SER AFECTADA NEGATIVAMENTE. SI NO HA RECIBIDO LA CITACIÓ N Y LA QUERELLA, DIRIJASE AL DESPACHO DEL SECRETARIO JUDICIAL INDICADO EN LA DIRECCIÓN DEL REMITENTE Y TRAIGA ESTA NOTIFICACIÓN CON USTED.